

CRIMINAL PROCEDURE

APPLICABILITY OF RULE 3.111(b)(1) TO PROSECUTIONS
IN MUNICIPAL COURTS

To: George W. Baldwin, Municipal Judge, North Palm Beach

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QUESTION:

Is Criminal Procedure Rule 3.111(b)(1) applicable to prosecutions in municipal courts?

SUMMARY:

Criminal Procedure Rule 3.111(b)(1) does not apply to prosecutions in municipal courts. However, said rule comports with the rationale of the decision of the United States Supreme Court in *Argersinger v. Hamlin*, 407 U.S. 25 (1972), which rationale is applicable to prosecutions in municipal courts. Therefore, I suggest that municipal courts operate in substantial accord with the postulates of said rule.

Criminal Procedure Rule 3.111(b)(1) provides that:

RULE 3.111 PROVIDING COUNSEL TO INDIGENTS.

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(b) Cases Applicable:

(1) Counsel shall be provided to indigent persons in all prosecutions for offenses punishable by imprisonment (or by incarceration in a juvenile corrections institution) including appeals from the conviction thereof. Counsel does not have to be provided to an indigent person in a prosecution for a misdemeanor or violation of a municipal ordinance if the judge, prior to trial, files in the cause a statement in writing that the defendant will not be imprisoned in the event he is convicted. (Emphasis supplied.)

Neither said rule nor any other Criminal Procedure Rule applies to prosecutions in municipal courts because Rule 3.010 limits the application of the Criminal Procedure Rules to "criminal proceedings in state courts." (Emphasis supplied.)

I am aware that said Rule 3.111(b)(1) contains a provision relating to a prosecution for "violation of a municipal ordinance." This provision applies to prosecutions in the county court (a "state court") for violations of municipal ordinances pursuant to the authorization of revised Art. V, §20(c)(4), State Const.

Despite its inapplicability to municipal courts, said rule is in accord with the rationale of the United States Supreme Court's opinion in *Argersinger v. Hamlin*, 407 U.S. 25 (1972), and I think that that rationale is just as applicable to a prosecution in a municipal court as it is to a prosecution in a county court. Therefore, I suggest that it would be well for municipal courts to operate in substantial accord with the postulates of said Rule 3.111(b)(1), CrPR.